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EXAMINER

TUCKER, WESLEY J

ART UNIT PAPER NUMBER

2623

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/737,371	Applicant(s) HERTZ ET AL.	
	Examiner Wes Tucker	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 15-19 and 21-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 15-19 and 21-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment and Arguments

2. Applicant's response to the last office action, filed December 9th 2005, has been entered and made of record.

3. Applicant has not amended any claims. Claims 13, 14 and 20 are canceled. New claims 24-29 have been added. Claims 1-12, 15-19 and 21-23 remain pending.

4. Applicant's arguments have been fully considered and entered, but are not persuasive for at least the following reasons:

5. Applicant argues primarily that the reference of Savitsky does not disclose the claimed features of claim 1 wherein user-specified criteria for searching and automatically distributing to a user images with the user-specified criteria. It is also claimed that the user-specified criteria is a source of the image.

Savitsky discloses that image meta-data is stored with the image data, wherein the meta-data includes the camera ID (column 1, lines 43-63). The camera ID is interpreted as an image source. Savitsky further discloses that more source information can be added to the image files such as time of day, location of kiosk where images were uploaded and even discloses cameras with GPS systems to add the exact location of the camera when the picture was taken (column 4, lines 8-20). It should be clear that Savitsky discloses "source" information.

Savitsky also discloses wherein these images that have been uploaded to a server are ***“searchable by text (i.e., from the captions or titles) or by image features”*** (column 1, lines 57-59). It must be noted here that Savitsky enables searching by text and images features and gives two examples of possible text including captions or titles, leaving one to reasonably assume that the text mentioned is also searchable by any text associated with the image such as the afore mentioned camera ID, kiosk location, and GPS camera position coordinates, all of which are interpreted by Examiner as source information. These source information all fall within text (text includes numbers) associated with the image files that is searchable. In a database if text is searchable, it follows that all the data in the database is searchable. One would question why such source information as that Savitsky discloses would even be obtained if it were not meant to be searchable. The only reason any such data is obtained or entered in a database is in order to organize such data. The only reason that data is organized in a database is so that the data in the database might be later accessed. This is what databases are for. It should also be noted that Savitsky mentions that the images are ***“searchable by text (i.e. from the captions or titles) OR BY IMAGE FEATURES.”*** Surely both text and image features used for searching image data must be fairly interpreted as the source information.

Applicant accuses Examiner of ***“impermissibly using hindsight from the Applicant's disclosure to assume that camera ID information saved as metadata is also utilized as user-specified criteria for searching and selecting digital images.”***

Let it be clear that no hindsight is needed to assume that camera ID information saved as metadata is also utilized as user-specified criteria for searching and selecting digital images. Savitsky discloses multiple source information saved as metadata. In addition to camera ID, Savitsky also discloses kiosk source information, time of day source information (a date or time is also considered a source of WHEN an image is captured), and a GPS camera position source information. The only sight used to interpret the searching of Savitsky as being enabled to search on source information is the knowledge of one of ordinary skill in the art, that such information is only captured for use in a database so that such information may be later accessed (i.e. searched, requested, distributed) according to such information. It is clear that the reference to Savitsky performs searching of an image database that is **“searchable by text (i.e. from the captions or titles) or by image features.”** Savitsky also determines multiple types of source information that is added to the image files. The source information is interpreted as both the searchable text and as image features. Therefore even if cannot be agreed as to whether or not the user’s of Savitsky’s invention are definitely performing their searches using the source information that Savitsky has explicitly disclosed, it must be agreed upon that that it would have been obvious to one of ordinary skill in the art at the time of invention to perform a search on the data by a user using search information, because Savitsky has explicitly disclosed allowing searching of image text and image features and has explicitly disclosed that metadata (image text or image features assigned to the images definitely includes source information. Therefore anyone of ordinary skill in the art would understand that searching such a

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database according to information in the database is enabled and motivated for the same reasons that any database is accessed, to find that which is organized and doing so according to its organization.

The previously presented rejection is maintained and accordingly made **FINAL**.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-8, 10, 15-19 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,571,271 to Savitzky et al. in view of U.S. Patent 6,480,627 to Mathias et al.

With regard to claim 1, Savitzky discloses a system for distributing digital images to a user. Savitzky discloses the system comprising an image capture device (Fig.1, element 116) for creating digital images wherein the digital images include metadata containing information about the digital images (column1, lines 45-51). Here metadata is interpreted as "camera ID, date of capture, and the like."

Savitzky further discloses at least one image server (Fig.1, 100) in communication with the image capture device, the image server receiving and storing digital images transmitted from the image capture device (column 4, lines 1-2).

Savitzky further discloses at least one programmable software agent in communication with the at least one image server (creation of HTML pages, column 2, lines 63-65) the at least one software agent including at least one set of user-specified criteria for selecting image, the at least one set of user-specified criteria including a desired source of the digital images, wherein for each set of user-specified criteria the software agent automatically compares the user specified criteria with the metadata of digital images (column 1, lines 43-63). Savitsky discloses where image metadata stored with the image at time of capture includes camera ID, which is interpreted as an image source. Also in the summary Savitsky discloses that the images may be searched by a user and that the images are searchable by text such as captions or titles or by image features. This is interpreted to include the source or camera ID as suggested by being included in the metadata.

The reasoned statement presented above in response to Applicants remarks is provided here for clarity:

Let it be clear that no hindsight is needed to assume that camera ID information saved as metadata is also utilized as user-specified criteria for searching and selecting digital images. Savitsky discloses multiple source information saved as metadata. In addition to camera ID, Savitsky also discloses kiosk source information, time of day source information (a date or time is also considered a source of WHEN an image is

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captured), and a GPS camera position source information. The only sight used to interpret the searching of Savitsky as being enabled to search on source information is the knowledge of one of ordinary skill in the art, that such information is only captured for use in a database so that such information may be later accessed (i.e. searched, requested, distributed) according to such information. It is clear that the reference to Savitsky performs searching of an image database that is **“searchable by text (i.e. from the captions or titles) or by image features.”** Savitsky also determines multiple types of source information that is added to the image files. The source information is interpreted as both the searchable text and as image features. Therefore even if cannot be agreed as to whether or not the user's of Savitsky's invention are definitely performing their searches using the source information that Savitsky has explicitly disclosed, it must be agreed upon that that it would have been obvious to one of ordinary skill in the art at the time of invention to perform a search on the data by a user using search information, because Savitsky has explicitly disclosed allowing searching of image text and image features and has explicitly disclosed that metadata (image text or image features assigned to the images definitely includes source information. Therefore anyone of ordinary skill in the art would understand that searching such a database according to information in the database is enabled and motivated for the same reasons that any database is accessed, to find that which is organized and doing so according to its organization.

Savitsky further discloses automatically evaluating and selecting a subset of digital images (column 1, lines 51-56). Here it is understood that there must be a

software agent used to display the images on an HTML page. Savitzky does not disclose the at least one software agent compares user-specified criteria with the metadata of digital images available at the image server during a first time period evaluate and select digital images from a desired source for distribution to the user, the at least one software agent automatically comparing the user-specified criteria with the metadata of additional digital images not available during the first time period whenever the additional digital images are made available at the image server.

The reference to Mathias was cited to teach the feature of a "standing order" wherein the operation of searching and retrieving images meeting a certain criteria repeatedly and automatically overtime (column 9, lines 41-51). Mathias teaches that in the image classifier, the system can automatically and repeatedly search for images and return images that meet a certain criteria such as cars the user is known to like. In this way the user may be updated continuously each time a new image of interest is found. This inherently happens over a first period and then over another period when new images are available and inherently uses some form of metadata. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to use the method of Mathias to continually search and update a user when an image of interest is found with the image retrieval system of Savitzky and to do so using metadata such as the desired source of the image (camera ID) and any searchable metadata in order to continually update a user when an image of interest is found in order to continually update a user when an image of interest is found. Both of these practices are well known in the art as shown here.

With regard to claim 2, Savitzky discloses the system wherein the at least one software agent is operable to monitor the at least one image server for digital images (column 1, lines 50-55). Here the image server recognizes new images and creates or modifies HTML pages. The server does this automatically and must require a "software agent."

With regard to claim 3, Savitzky discloses the system wherein the at least one image server is operable to push digital images to the at least one software agent (column 2 lines 60-65). Here the server presents the images as HTML pages with the help of the software agent.

With regard to claim 4, Savitzky discloses the system further including at least one display device for displaying the digital images selected by the at least one software agent (column 1, lines 50-55). Here the images are chosen by a software agent and displayed in the form of HTML pages. The display device would be some form of computer monitor.

With regard to claim 5, Savitzky discloses the system wherein the at least one software agent is associated with the at least one display device (column 2, lines 63-65). Here the HTML pages are associated with the web page displayed on some type of digital screen or monitor.

With regard to claim 6, Savitzky discloses the system further including a central processor in communication with the at least one display device (column 2 lines 60-65). Here it is understood that the central processor will be a computer and the display device will be that computer's monitor.

With regard to claim 7, Savitzky discloses the system wherein the at least one software agent is associated with the central processor (column 2 lines 60-65). It is inherent that a software agent must be associated with a central processor.

With regard to claim 8, Savitzky discloses the system wherein the central processor includes a plurality of programmable software agents corresponding to each of the display devices (column 2 lines 60-65). A number of different programmable software agents must be used to make HTML pages available to be seen on several different display devices.

With regard to claim 10, Savitzky discloses the system wherein the at least one software agent and the at least one image server are in connection via a broadband network (column 4, lines 1-4). Here it is understood that the Internet contains broadband networks. It is inherent that two devices in connection through the Internet would be in connection through a broadband network.

With regard to claim 15, the discussion of claim 1 applies. The method claimed is considered to be included in the system previously discussed.

With regard to claim 16, Savitzky discloses the method further including displaying the digital images selected by the at least one software agent (column 2, lines 61-64). Here clients are requesting certain pictures through a network interface, which must have a software agent to select the images to be displayed.

With regard to claim 17, Savitzky discloses the method further including creating the digital images using the image capture device (column 1, lines 43-45). It is inherent that the image capture device is used to create images.

With regard to claim 18, Savitzky discloses the method further including monitoring the at least one image server for digital images using the at least one software agent (column 2, lines 51-55).

With regard to claim 19, Savitzky discloses the method further including pushing digital images from the at least one image server to the at least one software agent (column 2, lines 61-64).

With regard to claim 21, the discussion of claim 1 applies.

With regard to claim 22, Mathias discloses the programmable software agent according to claim 21, wherein the software agent is operable to monitor the at least one image server for digital images (column 9, lines 47-51).

With regard to claim 23, Mathias discloses the programmable software agent according to claim 21, wherein the at least one image server is operable to push digital images to the software agent (column 9, lines 47-51).

7. Claims 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of U.S. Patent 6,571,271 to Savitzky et al. and U.S. Patent 6,480,627 to Mathias et al. in view of U.S. Patent No. 6,337,712 to Shiota.

With regard to claim 9, Savitzky and Mathias disclose the system according to claim 4. They do not specify the use of the system wherein the at least one display device is connected to a home network. Shiota discloses a device similar to the claimed invention and also allows for a connection with a general household office (Fig. 3, 11). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a connection with a home network for the reason of using the device to transfer and display images from home.

With regard to claim 11, Savitzky and Mathias disclose the system according to claim 1. Savitzky and Mathias do not allow for a wireless communication link between the image capture device and the image server. Shiota discloses a device very similar to the claimed invention and also allows for a wireless communication link (Fig.3, 5) between the server (Fig.3, 6) and the image capture device (Fig.3, 1). Shiota teaches that a wireless link is useful because "a user of a digital camera can transfer images, via this system while the user is away from home, thereby enabling continual use of the digital camera." See abstract last three lines. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a wireless communication link to facilitate transfer of digital images while the user is away from home.

With regard to claim 12, Savitzky and Mathias disclose the system according to claim 1. Savitzky and Mathias do not allow for communication between the image capture device and image server via a synchronization cradle. Shiota discloses a device very similar to the claimed invention and also allows for a synchronization cradle or docking station (4). The docking station is another way to transfer images from the camera to the server. Using a cradle, image transfer can be done without removing a memory card or storage device from the camera. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a synchronization cradle or docking station as taught by Shiota in the device of Savitzky to transfer images from camera to server quickly and easily.

New Claims

8. Claims 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of U.S. Patents 6,571,271 to Savitzky et al. and 6,480,627 to Mathias et al. and further in view of 6,968,366 to Zhang et al.

The combination of Savitzky and Mathias discloses the invention of claims 1, 15 and 21, but does not disclose the inclusion of audio and video. Zhang discloses a rich media searchable database directory for use with the Internet (Fig. 1, element 40 and column 2, lines 32-67). Zhang teaches that this embodiment enables users to search multimedia content using a number of different criteria and that the database can also be managed in a number of different ways. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to use the rich media searchable database of Zhang with the image database search and delivery methods of Savitzky and Mathias in order to enable searching audio and video information as well.

Final Rejection

9. Applicant's amendment necessitated the new grounds of rejection presented in the Office Action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wes Tucker whose telephone number is 571-272-7427. The examiner can normally be reached on 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu can be reached on 571-272-7429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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